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| EXAMINER |
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VAN HANDEL, MICHAEL P

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| ART UNIT | PAPER NUMBER |
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2617

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/020,713 | Applicant(s) MENEZ, BENOIT POL | |
| | Examiner Michael Van Handel | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-18, 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Lewis.

Referring to claims 1, 3, 4, 10, 14, 16, 17, and 23, Lewis discloses a method of providing programs to consumers comprising:

- a) sending electronic program guide information through a digital television network to a digital television receiver (p. 20, paragraph 203), said electronic program guide information comprising at least one selectable program identifier for initiating a purchase transaction for an item associated with said selectable program identifier (p. 9, paragraph 92)(Figs. 3A-3C);
- b) presenting said selectable program identifier;
- c) responsive to a selection of said program identifier, establishing a computer communications link between said digital television receiver and at least one remote server (p. 12, paragraph 126)(Fig. 4);

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- d) downloading from said remote server at least one potential purchase transaction associated with a registered vendor for a sale of said item associated with said program identifier;
- e) presenting said potential purchase transactions (Fig. 3B); and
- f) responsive to a selection of one of said potential purchase transactions, initiating said selected purchase transaction (Fig. 3C).

Referring to claim **10**, Lewis discloses presenting an electronic order form for said sale of said item associated with said selected program identifier, and uploading said electronic order form to said remote server via said computer communications link (see citation in part f above).

Referring to claims **2** and **15**, Lewis discloses the methods of claims 1 and 14, respectively, wherein said electronic program guide information is stored in said digital television receiver and includes information associated with programs previously broadcast for a predetermined time period (Lewis discloses that the user locates the starting point of the broadcast program which has been recorded on the system's built-in storage device through program menu displays on the VPR/DMS. Lewis further discloses that the user can scan backwards all broadcasts received within a limited time period)(p. 23, paragraph 241).

Referring to claims **5** and **18**, Lewis discloses the methods of claims 1 and 14, respectively, further comprising: determining said potential purchase transactions by querying, through said computer communications link, a plurality of additional remote

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servers, wherein selected ones of said plurality of remote servers are associated with different registered vendors (p. 12, paragraph 126).

Referring to claims **7, 8, 20, and 21**, Lewis discloses the methods of claims 1 and 14, further comprising:

receiving said selected purchase transaction at said remote server through said computer communications link (p. 12, paragraph 132).

Referring to claims **9 and 22**, Lewis discloses the methods of claims 8 and 21, respectively, further comprising:

billing a consumer account for said purchase transaction (p. 10, paragraph 98).

Referring to claims **11 and 24**, Lewis discloses the methods of claims 1 and 14, respectively, wherein said computer communications link is an Internet connection (p. 14, paragraph 151)(Fig. 6).

Referring to claims **12, 13, 25, and 26**, Lewis discloses the methods of claims 1 and 14, wherein said item associated with said program identifier is a copy of said program in a physical medium, wherein said physical medium is selected from the group consisting of compact disks, digital video disks, audio cassettes, and video cassettes (p. 21, paragraphs 213, 214, 215)(p. 25, paragraph 256). The USPTO considers the applicant's "selected from the group of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis.

Referring to claims 6 and 19, Lewis discloses the methods of claims 5 and 18, respectively. Lewis further discloses debiting payment from a user account (p. 11, paragraph 116). Lewis does not disclose recalculating potential purchase transactions to include a service fee. The examiner takes Official Notice that it is well known within the prior art to update an electronic order form to reflect additional costs associated with the purchase. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Lewis to update a payment screen to reflect additional costs associated with a purchase such as that taught by the prior art in order to inform a customer of the total amount that will be charged to their credit, checking, or debit accounts.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Robertson et al. discloses a system wherein a user can order and pay for a video cassette via an account or credit card facility (col. 11, l. 32-34)(Fig. 8).

Shteyn discloses a method and apparatus for facilitating access to content material, wherein information related to the purchase of an individual copy of program material, via DVD or VCR tape (p. 2, paragraph 19).

Knusdson et al. discloses an interactive program guide system that allows a user to record programs to a DVD (col. 7, l. 54-60).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571.272.7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Van Handel
Examiner

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MVH


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